

Attorney Docket No. 9400-7

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Glenn Mahony et al.

Confirmation No.: 5379

Serial No.: 10/606,677

Examiner: Unassigned

Filed: June 26, 2003

Group Art Unit: 2643

For: HYBRID FIBER TO THE HOME/FIBER TO THE CURB

TELECOMMUNICATIONS APPARATUS AND METHODS

RECEIVED

October 20, 2003

OCT 21 2003

OFFICE OF PETITIONS

Office of Patent Legal Administration
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO ACCORD THE PROPER FILING DATE

Sir:

As set forth in 37 CFR § 1.10(c) and MPEP § 506.02, Applicant hereby petitions to grant the proper filing date of **June 26, 2003** rather than **June 27, 2003** for the above-identified patent application as this was the date the application was deposited as "Express Mail" in the U.S. Postal Service. The following is enclosed as evidence of **June 26, 2003** being the correct filing date for the application which was properly filed under 37 C.F.R. § 1.10:

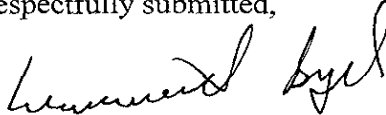
1. A true and accurate copy of the Cover Sheet for the Application showing the Express Mail signature and date on Page 2;
2. A true and accurate copy of the Express Mail Receipt marked by the United States Postal Service ("USPS") as a "date-in" or deposit date with the USPS of 5:29 p.m. on **June 26, 2003**; and
3. A true and accurate copy of our return post card sent by the United States Patent and Trademark Office, showing that Applicant was improperly given the filing date of **June 27, 2003** instead of the Express Mail date of **June 26, 2003**.

This petition is being filed promptly after Applicant became aware of the improperly accorded filing date. Accordingly, Applicant respectfully requests the granting of **June 26, 2003** as the filing date pursuant to 37 CFR § 1.10.

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Serial No.: 10/606,677
Filed: June 26, 2003
Page 2

On the basis that Applicant properly followed the requirements of 37 CFR § 1.10 and the USPTO failed to accord the proper filing date under MPEP § 505 and thus the need to file this petition is due to error on the part of the USPTO, it is applicant's belief that no fee is due with this petition. However, the Commissioner is authorized to charge any deficiency or credit any overpayment to Deposit Account No. 50-0220.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mitchell S. Bigel", written in a cursive style.

Mitchell S. Bigel
Registration No. 29,614

USPTO Customer No. 39072
Myers Bigel Sibley & Sajovec
Post Office Box 37428
Raleigh, North Carolina 27627
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

COPY PATENT

ATTY DOCKET NO.: 9400-7

DATE: June 26, 2003

**UTILITY PATENT APPLICATION TRANSMITTAL LETTER
AND FEE TRANSMITTAL FORM (37 CFR 1.53(b))**

Mail Stop PATENT APPLICATION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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OFFICE OF PETITIONS

Sir:

Transmitted herewith for filing under 37 CFR 1.53(b) is:

- ☒ a patent application
☐ a Continuation ☐ a Divisional ☐ a Continuation-in-Part (CIP) Application of prior application no.: _____; filed _____, the disclosure of which is hereby incorporated herein by reference in its entirety.
☒ and claims the benefit of Provisional Application No. 60/449,999; filed February 25, 2003.

Inventor(s) or Application Identifier:

Glenn Mahony – Duluth, Georgia
David W. Levenson – Duluth, Georgia

Entitled: **HYBRID FIBER TO THE HOME/FIBER TO THE CURB
TELECOMMUNICATIONS APPARATUS AND METHODS**

Correspondence Address:



20792

PATENT TRADEMARK OFFICE

Enclosed are:

1. ☒ Application Transmittal Letter and Fee Transmittal Form (*A duplicate is enclosed for fee processing*)
2. ☒ 19 pages of Specification (including 35 claims)
3. ☒ 8 sheets of Formal Drawings (35 USC 113)
4. ☒ Oath or Declaration
 - a. ☒ newly executed (*original or copy*)
 - b. ☐ copy from prior application (37 CFR 1.63(d) (*for continuation/divisional*) [Note Box 6 Below])
 - c. ☐ **DELETION OF INVENTOR(S)** (*Signed statement deleting inventor(s) named in the prior application*)
5. ☐ Application Data Sheet. See 37 CFR 1.76
6. ☐ Incorporation By Reference (*useable if box 4b is checked*)

The entire disclosure of the prior application, from which a copy of the oath or declaration is supplied under Box 4b, is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference therein.

7. ☐ Microfiche Computer Program (*Appendix*)
8. ☒ Assignment papers (*cover sheet(s) and document(s)*)
9. ☐ Applicant claims small entity status. See 37 CFR 1.27.
10. ☒ Information Disclosure Statement, PTO-1449, and 4 references cited
11. ☐ Preliminary Amendment (*Please enter all claim amendments prior to calculating the filing fee.*)
12. ☐ English Translation Document
13. ☐ Certified Copy of Application No. ; Filed
14. ☐ Sequence Listing/ Sequence Listing Diskette
 - a. ☐ computer readable copy
 - b. ☐ paper copy
 - c. ☐ statement in support
15. ☐ An Associate Power of Attorney
16. ☒ Return Receipt Postcard (MPEP 503) (*Should be specifically itemized*)
17. ☐ Other:

The fee has been calculated as shown below:

	Column 1 No. Filed	Column 2 No. Extra	Small Entity Rate Fee	Large Entity Rate Fee
BASIC FEE			\$375.00	\$ 750.00
TOTAL CLAIMS	35 - 20 =	15	x 09 = \$	x 18 = \$ 270.00
INDEP CLAIMS	3 - 3 =	0	x 42 = \$	x 84 = \$ 0
<input type="checkbox"/> MULTIPLE Dependent Claims Presented			+ 140 = \$	+ 280 = \$
<i>If the difference in Col. 1 is less than zero, Enter "0" in Col. 2</i>			Total \$	Total \$1,020.00

- ☐ A check in the amount of \$ to cover the filing fee is enclosed.
- ☒ A check in the amount of \$1,060.00 is enclosed to cover the filing fee, PLUS the Assignment Recordation fee (\$40.00).
- ☐ Please charge my Deposit Account No. 50-0220 in the amount of \$
- ☒ The Commissioner is hereby authorized to credit overpayments or charge the following fees associated with this communication to Deposit Account No. 50-0220:
- a. ☒ Additional filing fees under 37 CFR 1.16 for presentation of extra claims.
 - b. ☒ Additional patent application processing fees under 37 CFR 1.17.

Respectfully submitted,


Robert M. Meeks

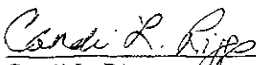
Registration No. 40,723

CERTIFICATE OF EXPRESS MAILING

Express Mail Label No. EV 353609750 US

Date of Deposit: June 26, 2003

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to: Mail Stop PATENT APPLICATION, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450


Candi L. Riggs

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Shipment Details

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Here is what happened earlier:

- ARRIVAL AT UNIT, June 27, 2003, 8:38 am, DULLES, VA 20102
- ENROUTE, June 26, 2003, 7:49 pm, RALEIGH, NC 27623
- ACCEPTANCE, June 26, 2003, 5:29 pm, RALEIGH, NC 27612

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RMM:clr 17410 U.S. PTO 9400-7
10/606677 June 26, 2003



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Sir: Kindly acknowledge receipt of the accompanying by placing your
receiving date stamp hereon and mailing:

Utility Patent Application Transmittal Letter and Fee Transmittal Form (in
duplicate); Specification (19 pages – 35 claims); Drawings (8 sheets – Figures 1-8);
Declaration and Power of Attorney; Assignment Recordation Form Cover Sheet;
Assignment; Information Disclosure Statement; Form PTO-1449; Copies of 4
Cited References; Check in the amount of \$1,060.00; In re: Glenn Mahony et al.
For: HYBRID FIBER TO THE HOME/FIBER TO THE CURB
TELECOMMUNICATIONS APPARATUS AND METHODS

07-18-03 A08:40 IN

Respectfully submitted,
MYERS BIGEL SIBLEY & SAJOVEC